
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Part 4 of the Pensions Act 2011 (c. 19) (“the Act”), section 29 of which clarifies the definition of “money purchase benefits” in section 181 of the Pension Schemes Act 1993 (c. 48) (“the 1993 Act”) and other Acts. Section 29 has retrospective effect to 1st January 1997 and these Regulations make transitional, consequential and supplementary provision to support its commencement.

Part 1 of these Regulations provides for citation, commencement, extent and interpretation.

Part 2 is supplementary to Part 4 of the Act. Regulation 4 makes clear that section 29 does not change the character of money purchase underpin benefits, where the value of those benefits equals or exceeds the value of other benefits under an occupational pension scheme which are not money purchase benefits, or equals or exceeds the amount of a minimum promise under the scheme. Regulation 5 similarly clarifies that where there is contingent promise to pay a top-up benefit if a money purchase benefit is less than a specified minimum amount or value, the existence of that promise does not prevent the benefit from being a money purchase benefit, provided the money purchase benefit is equal to or greater than the specified minimum.

Part 3 exempts the Imperial Home Decor Pension Scheme (which was the subject of the Supreme Court’s judgment in *Houldsworth and another v Bridge Trustees Ltd and another* (“*Bridge Trustees*”)) from Part 4 of the Act and from these Regulations.

Part 4 makes transitional provision for schemes which were previously contracted-out of the state pension system and which provided protected rights in the form of cash balance benefits, underpin benefits or top-up benefits.

Part 5 provides transitional protection for trustees or managers of a scheme where a benefit subject to a guarantee has been converted into a money purchase benefit without first obtaining the consent of each affected member, as required under section 67 of the Pensions Act 1995 (c. 26) (“the 1995 Act”). Regulation 9 also restricts, with prospective effect, the manner in which detrimental changes to a contingent promise in relation to members’ money purchase benefits may be made.

Part 6 makes transitional arrangements for schemes which have begun to wind up before the day appointed for the coming into force of section 29 of the Act (“the appointed day”) and which include benefits which may be affected by section 29 (“affected benefits”). Regulations 11 and 13 make arrangements for schemes treated as money purchase schemes and regulations 12 and 14 apply to schemes providing affected benefits as well as other defined benefits. Regulations 15 and 16 apply where a scheme has been involved with the Pension Protection Fund (“PPF”). Regulation 17 permits trustees or managers to discharge a pension which is derived from both affected benefits and additional voluntary contributions and which comes into payment before 1st April 2015, as if the pension were money purchase benefits.

Part 7 deals with the application of section 75 of the 1995 Act to occupational pension schemes which may be affected by the coming into force of section 29 of the Act. Regulation 20 disapplies section 75 of the 1995 Act where an event which would have triggered a debt due from an employer in relation to a scheme (“a relevant event”) occurred before the appointed day, had the scheme not been treated as a money purchase scheme. Regulations 21 and 22 make similar provision for schemes with affected benefits which experienced a relevant event during that period. Regulations 23 and 24 set out transitional arrangements for schemes providing non-money purchase benefits which the trustees or managers of the scheme had treated as money purchase benefits, but which were not

affected by the Supreme Court's judgment in *Bridge Trustees*, where a relevant event occurred before the appointed day.

Part 8 makes supplementary, consequential and transitional arrangements in relation to revaluation, indexation and preservation of benefits. Regulation 25 makes transitional arrangements where affected benefits have before the appointed day been revalued by the application of notional interest. Regulation 26 makes transitional arrangements for schemes which before the appointed day began to provide non-indexed pensions derived from affected benefits. Regulation 27 makes consequential amendments to the Occupational Pension Schemes (Preservation of Benefits) Regulations 1991 (S.I. 1991/167).

Part 9 provides transitional arrangements for calculating transfer values relating to cash balance benefits which were treated as money purchase benefits. Regulation 32 also makes supplementary amendments to the Occupational Pension Schemes (Transfer Values) Regulations 1996 (S.I. 1996/1847) to provide for calculation of transfer values in relation to cash balance benefit after the appointed day.

Part 10 makes transitional provision for members of schemes who have acquired a right to a cash transfer sum or contribution refund under Chapter 5 of Part 4 of the 1993 Act, where the member's benefits were treated as money purchase benefits before the appointed day. Regulation 35 also amends the Occupational Pension Schemes (Early Leavers: Cash Transfer Sums and Contribution Refunds) Regulations 2006 (S.I. 2006/33).

Part 11 makes transitional provision for cases where a scheme was treated as a money purchase scheme and a payment of surplus funds was made to the employer before the appointed day without first complying with the conditions specified in section 37 or 76 of the 1995 Act.

Part 12 modifies the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (S.I. 1996/1715) for transitional purposes in cases where trustees or managers of a scheme have treated the scheme as if it were a money purchase scheme.

Part 13 provides transitional, consequential and supplementary arrangements for schemes involved with the PPF. Regulation 43 provides for a scheme treated as a money purchase scheme to be ineligible for the PPF in relation to periods before 1st April 2015. Regulation 44 validates valuations etc made before the appointed day. Regulation 47 makes transitional provision in relation to levy calculations covering periods before the appointed day. Regulations 45, 46, 48 and 49 provide transitional arrangements for schemes which have been treated as money purchase schemes, or schemes with affected benefits, in relation to periods after the appointed day. Regulations 51 to 57 validate the treatment of affected benefits as money purchase benefits in relation to periods before the appointed day, and also permit those benefits to be discharged as money purchase benefits after the appointed day where specified conditions are met.

Regulation 58 amends the Pension Protection Fund (Entry Rules) Regulations 2005 (S.I. 2005/590) for transitional purposes, to provide for schemes previously treated as money purchase schemes which become eligible schemes. Regulations 59 and 60 make consequential and supplementary amendments to the Pension Protection Fund (Compensation) Regulations 2005 (S.I. 2005/670), which in turn modify Schedule 7 to the Pensions Act 2004 ("the 2004 Act"). Regulation 61 makes consequential and supplementary amendments to the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations 2005 (S.I. 2005/669).

Part 14 sets out transitional arrangements in relation to Part 3 of the 2004 Act. Regulation 63 deals with schemes which are not money purchase schemes but were treated as such before the appointed day. Regulation 64 makes provision for schemes providing non-money purchase benefits which were before the appointed day treated as money purchase benefits. Regulations 65 to 69 provide transitional arrangements, including modification of Part 3 of that Act and of the Occupational Pension Schemes (Scheme Funding) Regulations 2005 (S.I. 2005/3377), for schemes treated as money purchase schemes before the appointed day.

Part 15 makes transitional provision in relation to the Financial Assistance Scheme. Regulation 71 provides that schemes treated as money purchase schemes are not qualifying schemes for the purposes of the Financial Assistance Scheme Regulations 2005 (S.I. 2005/1986). Regulation 72 ensures that decisions or actions made in relation to eligible schemes before the appointed day do not have to be revisited.

Part 16 makes transitional modifications and consequential and supplementary amendments to the Equality Act (Sex Equality Rule) (Exceptions) Regulations 2010 (S.I. 2010/2132) in relation to affected benefits.

Part 17 provides transitional arrangements in relation to pension sharing activity before the appointed day.

Part 18 makes transitional provision for schemes operating across borders which have been treated as money purchase schemes before the appointed day, but will not be money purchase schemes on or after that day.

Part 19 covers disclosure of information in relation to benefits and schemes which were treated as money purchase before the appointed day. Regulation 78 disapplies specified provisions of the Occupational Pension Schemes (Disclosure) Regulations 1996 (S.I.1996/1655) and the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734) (“the Disclosure Regulations”) in relation to periods before the appointed day, so as to ensure that trustees or managers of schemes are not required to provide information in relation to a scheme or benefits treated as money purchase. Regulation 79 makes consequential and supplementary amendments to the Disclosure Regulations.

An assessment of the impact of this legislation on the private sector and civil society organisations has been made. A copy of this impact assessment is available in the libraries of both Houses of Parliament and alongside this instrument on www.legislation.gov.uk. Copies may also be obtained from the Better Regulation Unit of the Department for Work and Pensions, 2D, Caxton House, Tothill Street, London SW1H 9NA.

Changes to legislation:

There are currently no known outstanding effects for the The Pensions Act 2011 (Transitional, Consequential and Supplementary Provisions) Regulations 2014.